

WETLANDS COUNCIL

MINUTES

APRIL 22, 2003

The Wetlands Council met on Tuesday, April 22, 2003 at the Department of Environmental Services, 6 Hazen Dr., Concord, NH

Attendees:

Council Members: Brian Fowler, Mike Dannehy, Camilla Lockwood, Glenn Normandeau
Designees: Sharon Champagne, Ted Diers, Brent Edmonds, William Ingham Jr., E. William Roy and Thomas Sloan

Unfilled Positions: NH Certified Wetlands Scientists Representative, Environment Protection & Resource Management, Municipal Official

The meeting was called to order by Chairman Brian Fowler at 9:05 a.m.

1. Approval of Minutes of April 8, 2003 Meeting

A motion was made by Mr. Roy, seconded by Mr. Normandeau and unanimously voted to amend the minutes of April 8, 2003 as follows:

The meeting reconvened after the hearing on Docket No. 02-10/11. It was decided to schedule a meeting on April 22, 2003 at 9:00 a.m. for deliberations on this appeal. The meeting adjourned at approximately 2:45 p.m.

A motion was made by Mr. Diers, seconded by Ms. Lockwood and unanimously voted to accept the minutes as corrected.

2. Status of Appeals

- a. Docket No. 02-15 WtC - Conservation Law Foundation: WB 2000-00131 NHDOT, Troy Bypass
A pre-hearing conference has been scheduled for April 22, 2003 at 1:00 p.m.
- b. Docket No. 02-16 WtC - Donald S. Thompson: WB 2002-01019
A pre-hearing conference was held on April 8, 2003 at 2:30 p.m. The appellant and DES are in settlement discussions. It was decided to stay any action pending the results of those discussions.
- c. Docket No. 03-02 WtC – Philip and Judith Mills: WB 2002-00922
The Wetlands Bureau has filed a certified record with the Appeals Clerk.

- d. Docket No. 03-03 WtC – Joseph J. Smith: WB 2001-00787
The Wetlands Bureau has filed a certified record with the Appeals Clerk.
- e. Docket No. 03-04 WtC – Aqua Terrace Condominium Assn: WB 2002-00866
The Wetlands Bureau has filed a certified record with the Appeals Clerk.

3. Other Business

Permit-by-Notification Rules

Collis Adams, Wetlands Bureau Administrator, presented an update on the permit-by-notification rules to the Council. It is currently in rulemaking and tentatively scheduled for public hearing on May 23, 2003 at DES pending confirmation from the Office of Legislative Services.

Mitigation Rules

Mr. Adams circulated a copy of proposed mitigation rules for comment by Council members. The proposed rules have been sent to DES's legal unit for review and rulemaking will be initiated in the near future.

Requests for Reconsideration

Mr. Fowler opened for discussion the process of requesting reconsideration of decisions made by the Wetlands Bureau. Currently, a permittee is required to file a request for reconsideration with the Bureau, which has 30 days to respond. If the Bureau does not reverse its decision, the permittee then can appeal the decision to the Wetlands Council. Mr. Fowler suggested that the process would be more efficient and easier to navigate if the request for reconsideration process were eliminated and an appeal brought directly to the Council. It would, however, necessitate a change to the statute and to the Council rules to allow the Council to accept new information. Additional fact finding will be conducted and the matter brought before the Council for further discussion at a later date.

4. Council Deliberations – Docket No. 02-10/11 WtC, WB 2000-02714, Appeal of Leslie J. Ludtke and Gordon R. Blakeney, City of Concord, Langley Parkway, permittee

Chairman Fowler received a letter and motion to reopen the record from appellant, Leslie Ludtke, on April 18, 2003. Chairman Fowler denied the motion.

A motion was made by Mr. Normandeau to ratify Chairman Fowler's decision to deny the motion filed by Leslie Ludtke to reopen the record. Mr. Roy seconded the motion and it was unanimously voted.

After lengthy deliberations, the following vote was taken:

Mr. Dannehy made a motion to affirm the Wetlands Bureau's decision to issue a permit. Mr. Normandeau seconded the motion. The motion carried by a vote of five to four.

5. Next Meeting

The next meeting is tentatively scheduled for May 6, 2003. This will be in place of the regularly-scheduled May 13 meeting.

6. Adjourn

Ms. Champagne made a motion to adjourn. Mr. Edmonds seconded the motion and it was unanimously voted.

The meeting adjourned at 11:00 a.m.